

3. A district court should only deny a motion to amend a complaint if there is a substantial reason to do so. *Espey v. Wainwright*, 734 F. 2d 748, 750 (11th Cir. 1984) (“Unless there is a substantial reason to deny leave to amend, the discretion of the district court is not broad enough to permit denial”); accord, *Dussouy v. Gulf Coast Investment Corp.*, 660 F. 2d 748, 597 (5th Cir. 1981); *Cement Masons’ Pension Fund, Local 502 v. Clements*, 91 C 8032, 1993 U.S. Dist. LEXIS 13938 (N.D.Ill., Oct. 5, 1993); *Nagy v. Riblet Products Corp.*, No. S90-202 (RLM), 1991 U.S. Dist. LEXIS 20128, *1, Fed. Sec. L. Rep. (CCH) P96,535 (N.D.Ind., Oct. 16, 1991); *Kopala v. Pepsi-Cola Bottling Co.*, No. S90-296 (RLM), 1991 U.S. Dist. LEXIS 10261, *3-4, 55 Fair Empl. Prac. Cas. (BNA) 1535 (N.D.Ind. May 7, 1991); *Select Creations v. Paliapito Am.*, 830 F. Supp. 1213, 1215-16 (E.D.Wisc. 1993).

4. The amendment will not cause prejudice to the defendant as the core facts are the same and discovery has not yet closed. Further the servicer is named a necessary party to effectuate rescission and no additional discovery would be required by adding the servicer. See *Johnson v. Oroweat Foods*, 785 F. 2d 503, 510 (4th Cir. 1986) (court held that the addition of new factual allegations or a change in legal theory only prejudices the defendant if the amendment is sought shortly before or during trial); *Hely & Patterson Intern v. F.D. Rich Housing*, 663 F. 2d 419, 426 (3rd Cir. 1981) (“In the context of a 15(a) amendment, prejudice means that the nonmoving party must show that it was unfairly disadvantaged or deprived of the opportunity to present facts or evidence which it would have offered had the amendments . . . been timely.”); *Head v. Timken Roller Bearing Co.*, 486 F. 2d 870, 873 (6th Cir. 1973) (“amendments should be tendered no later than the time of pretrial . . .”).

WHEREFORE, Plaintiff respectfully requests that this Court grant them leave to file an amended complaint in order to add their mortgage servicer American Home Mortgage Servicing

Inc. The proposed Amended Complaint is attached as *Exhibit 1*.

Respectfully submitted,

/s/ Keith J. Keogh

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